

II. Be it therefore enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, That the said Act shall from and after the End of this present Session of Parliament, be perpetual and have Continuance for ever.

III. And be it further enacted by the Authority aforesaid, That all Churchwardens, and all Persons called Sworn-Men, executing of the Office of Churchwardens, and all Overseers of the Poor, and all others which in their Aid and Assistance, or by their Commandment, shall do any Thing touching or concerning his or their Office or Offices, shall hereafter be enabled to receive, and have such Benefit and Help by Virtue of the said Act, to all Intents, Constructions and Purposes, as if they had been specially named therein.

I. The Statute of 7 Jac. 1, c. 5, enlarged and made perpetual, 4 Inst. 174.

III. Churchwardens and Overseers of the Poor shall be comprehended within the Purview of 7 Jac. 1, c. 5.

Scope of Statute.—Statute 7 Jac. 1, c. 5, is made perpetual by this Statute. That part of the latter Act, respecting the county in which suits are to be brought and double costs, did not extend to the province. It was also held in *Day v. Day*, 4 Md. 262, that the first section of Stat. 24 Geo. 2, c. 44, is not in force, and it appears from the same authority, and Kilty's Report, 253, that no part of it, except the second section, extended. It is settled that the Stats. 7 Jac. 1, c. 5, and 21 Jac. *1, c. 12, only affect actions of *tort* and not actions of *assumpsit*, *Atkins v. Banwell*, 3 East, 92, though this was on the subject of costs. A secretary of state was held not to be a justice within the Act of 24 Geo. 2, *Entick v. Carrington*, 2 Wils. 290, but it seems that a constable may make a deputy upon a writ directed to him, he being sick, and such deputy is within the Stats. of Jac. 1, *Phelps v. Winchcomb*, 3 Bulstr. 77. As to Churchwardens, see *Burton v. Henson*, 10 M. & W. 105.

Liability of officer for official acts.¹—It is a general rule that, where stat-

¹ A justice of the peace, or any other judicial officer, is liable in damages for malicious, fraudulent and corrupt conduct in the discharge of his official duties; and he is also so liable for failure to perform a mere ministerial act which it is his duty to perform, though his failure or refusal to perform it may not be the result of malice, fraud, or corrupt conduct. But he is not liable, either civilly or criminally, for error of judgment or mistake honestly made in regard to the performance of any judicial act or duty. *Knell v. Briscoe*, 49 Md. 414; *State v. Carrick*, 70 Md. 586. Cf.